

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Petition for Waiver of Rules Requiring Support	)	GN Docket No. 15-178
of TTY Technology	)	
	)	

**PETITION FOR WAIVER EXTENSION**

On August 24, 2017, the Federal Communications Commission (“FCC” or “Commission”) granted TracFone Wireless, Inc. (“TracFone”) a limited waiver of its requirements to support text telephony (“TTY”) over Internet-Protocol (“IP”)-based wireless services until December 31, 2017.<sup>1</sup> By this Petition, TracFone requests that the FCC extend the waiver until June 30, 2021, the earliest real-time text (“RTT”) implementation date applicable to TracFone.

**I. BACKGROUND**

TracFone is the top prepaid wireless service provider in the United States and the nation’s fifth largest wireless provider overall. As a mobile virtual network operator (“MVNO”), TracFone resells the commercial mobile radio service (“CMRS”) of various licensed network-based carriers throughout the United States. TracFone’s arrangements with those providers enable it to offer CMRS service wherever any of those providers offer service. As a reseller, TracFone does not own or operate any facilities used to provide service. Therefore, TracFone has no control over its underlying carriers’ facilities nor the technologies employed by those carriers on their communications networks.

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<sup>1</sup> *TracFone Wireless, Inc., Petition for Waiver of Rules Requiring Support of TTY Technology*, 32 FCC Rcd 6675 (2017) (“*TracFone Waiver Order*”).

Individuals who are deaf, hard of hearing, deaf-blind, and have a speech disability rely on TTY to send and receive text communications over telephone networks. FCC rules require defined classes of communications service providers and manufacturers to support TTY technology to call 911 emergency services, utilize telecommunications relay services, and access telecommunications and advanced communications services.<sup>2</sup> However, VoIP networks impede or prevent delivery of TTY messages because of packet loss, distortion, and bandwidth issues. With this in mind, the Commission in 2015 granted AT&T waiver of the requirements to support TTY on wireless networks using IP technologies.<sup>3</sup> For AT&T, and other service providers subsequently granted similar waivers, “the waiver’s expiration date originally was set as the sooner of December 31, 2017, or the effective date of Commission rules providing for alternative IP-based accessibility solutions.”<sup>4</sup>

Then, in the 2016 *RTT Report and Order*, the agency amended its TTY support rules, allowing wireless service providers to support RTT in lieu of TTY technology.<sup>5</sup> The Order set phased implementation deadlines for RTT compliance based on carrier type, providing non-Tier I carriers “additional time to comply with the RTT support requirements because they serve small subscriber populations, have fewer device options, often acquire the latest handset models much later than Tier I providers, and have limited influence on the technical ecosystem and standards setting.”<sup>6</sup> For MVNOs and other CMRS resellers, the FCC set the implementation

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<sup>2</sup> 47 C.F.R. §§ 6.3(b), 6.5, 7.3(b), 7.5, 14.20, 14.21(d), 20.18(c), 64.603.

<sup>3</sup> See *Petition for Waiver of Rules Requiring Support of TTY Technology*, Order, 30 FCC Rcd 10855 (2015).

<sup>4</sup> *TracFone Waiver Order*, ¶ 2.

<sup>5</sup> See *Transition from TTY to Real-Time Text Technology*, Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 13568 (2016) (*RTT Report and Order*).

<sup>6</sup> *Id.*, ¶ 68.

date as June 30, 2021, recognizing that “they may not be able to support RTT to the extent necessary until after the technology has been implemented by both Tier I and non-Tier I facilities-based CMRS providers.”<sup>7</sup> In addition, the FCC extended expiration dates for all previously granted TTY waivers “to their earliest RTT implementation date.”<sup>8</sup>

Following the Order, and after learning that AT&T planned to make IP-based voice services available to end users receiving service from resellers like TracFone, TracFone applied for a waiver of TTY support requirements. In August 2017, the FCC granted TracFone’s waiver until December 31, 2017.<sup>9</sup> The Commission based the waiver expiration upon TracFone’s statement that it did not expect to need a waiver beyond that date.<sup>10</sup>

## **II. EXTENDING TRACFONE’S WAIVER UNTIL JUNE 30, 2021 IS CONSISTENT WITH COMMISSION PRECEDENT AND THE PUBLIC INTEREST.**

The Commission may waive its rules for good cause shown.<sup>11</sup> The FCC typically exercises its discretion to waive a rule when the particular facts make strict compliance inconsistent with the public interest.<sup>12</sup> In addition, the agency may take into account

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<sup>7</sup> *Id.*, ¶ 68 n.249.

<sup>8</sup> *Id.*, ¶ 71.

<sup>9</sup> *TracFone Waiver Order*, ¶ 1.

<sup>10</sup> *Id.*, ¶ 9.

<sup>11</sup> 47 C.F.R. § 1.3.

<sup>12</sup> The Commission has considerable discretion as to whether to waive its rules. *See Office of Communication of United Church of Christ v. FCC*, 911 F.2d 803, 812 (D.C. Cir. 1990) (upholding the Commission’s grant of a waiver “[g]iven the deference due the agency in matters of this sort”); *City of Angels Broadcasting, Inc. v. FCC*, 745 F.2d 656, 663 (D.C. Cir. 1984) (noting that the scope of review of a waiver determination by the Commission “is narrow and constrained”).

considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.<sup>13</sup>

Here, good cause exists to extend TracFone's waiver until June 30, 2021. *First*, the underlying rationale upon which the FCC relied to grant TracFone's original waiver request has not changed:

“As TracFone states, its current ability to provide support for TTY technology—as a CMRS reseller of IP wireless services—as well as its future ability to provide real-time text over wireless IP networks, is limited by the extent to which solutions implemented by its underlying facilities-based carrier, in this instance, AT&T, can support these technologies. In the *AT&T TTY-RTT Transition Waiver Order* and subsequent waiver orders, we explained that a waiver of the TTY support obligations was warranted on the one hand, because of the many technical difficulties associated with providing TTY support in a wireless IP environment and the declining use of TTY technology both generally and more specifically for wireless services, and on the other, because of the likely benefits that a waiver would have, by facilitating the deployment of IP-based services using wireless technologies for the public at large, as well as IP-based accessibility solutions, such as real-time text, for people with disabilities. These same justifications apply here to TracFone, as AT&T's reseller, and lead us to conclude that the Commission's goals of ensuring access to communications services, specifically for individuals with disabilities and more broadly for the general public, will best be served by granting a temporary limited waiver of the Commission's TTY requirements for TracFone's wireless IP offerings, subject to the conditions set forth in this Order.”<sup>14</sup>

*Second*, the *RTT Report and Order* extended other TTY waivers until the earliest applicable RTT compliance date. Accordingly, the Commission should extend TracFone's waiver until June 30, 2021, its earliest compliance date.

*Third*, though TracFone's original waiver request focused solely on AT&T's network, it is concerned that additional of its underlying carriers will deploy IP-based services. The Commission held in the *RTT Report and Order* that MVNOs like TracFone cannot fully support

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<sup>13</sup> *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972); *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

<sup>14</sup> *TracFone Waiver Order*, ¶ 7.

RTT until RTT implementation by both Tier I and non-Tier I facilities-based CMRS providers. By extension, TracFone cannot be certain that its underlying carriers will all implement RTT by the time its current waiver expires. TracFone aims to ensure compliance for all its underlying networks. The June 30, 2021 waiver expiration properly accounts for TracFone's status as a reseller of multiple carriers deploying IP-based services, not just AT&T.

### **III. CONCLUSION.**

For the foregoing reasons, the Commission should extend TracFone's waiver of its requirements to support text telephony TTY over IP-based wireless services until June 30, 2021.

Respectfully submitted,

By: /s/

Shawn H. Chang  
Anna M. Gomez  
Wiley Rein LLP  
1776 K St NW  
Washington, DC 20006

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